

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HAPAG-LLOYD AG,

Plaintiff,

- against -

U.S. OIL TRADING LLC, O.W. BUNKER
GERMANY GMBH, and ING BANK N.V.,

Defendants.

14-cv-9949 (VEC)

U.S. OIL TRADING LLC,

Plaintiff,

- against -

M/V VIENNA EXPRESS, her tackle, boilers,
etc., *in rem*, and M/V SOFIA EXPRESS, her
tackle, boilers, etc., *in rem*,

Defendants.

15-cv-6718 (VEC)

HAPAG-LLOYD AG, as claimant to the
in rem defendant M/V VIENNA EXPRESS,

Third-Party Plaintiff,

- against -

O.W. BUNKER GERMANY GMBH, and
ING BANK N.V.,

Third-Party Defendants.

**DECLARATION OF JUSTIN M. HEILIG
IN SUPPORT OF O.W. BUNKER GERMANY GMBH'S
MOTION FOR SUMMARY JUDGMENT**

I, Justin M. Heilig, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney with Hill Rivkins LLP, co-counsel for O.W. Bunker Germany GmbH (“OW Germany”), together with McDermott Will & Emery LLP, in the above-captioned actions.
2. I make this Declaration in support of OW Germany’s Motion for Summary Judgment based upon my own personal knowledge, the documents contained in my file, and various discussions with my client and co-counsel. OW Germany seeks summary judgment on its *in personam* interpleader claims and counterclaims against Hapag-Lloyd AG (“Hapag”).
3. Attached hereto as **Exhibit 1** is a Ship & Bunker news article by Alessandro Mauro, entitled “OW Bunker: How One of the World’s Largest Marine Fuel Traders Went from IPO to Bankruptcy – Part 1,” which is publicly available at: <http://shipandbunker.com/news/features/industry-insight/649431-ow-bunker-how-one-of-the-worlds-largest-marine-fuel-traders-went-from-ipo-to-bankruptcy-part-1-founding-to-ipo>.
4. Attached hereto as **Exhibit 2** is a Bloomberg news article by Christian Wienberg, entitled “OW Jumps After Selling Second Biggest Danish IPO Since 2010,” which is publicly available at: <http://www.bloomberg.com/news/articles/2014-03-28/ow-bunker-s-980-million-ipo-denmark-s-second-biggest-since-2010>.
5. Attached hereto as **Exhibit 3** is an O.W. Bunker A/S (“OW Denmark”) company announcement made on October 7, 2014, which is publicly available from the NASDAQ GlobeNewswire service at: <http://globenewswire.com/news-release/2014/10/07/671235/0/en/OW-Bunker-adjusts-full-year-2014-financial-guidance-and-changes-financial-calendar.html>.

6. Attached hereto as **Exhibit 4** is an OW Denmark company announcement made on October 23, 2014, which is publicly available from the NASDAQ GlobeNewswire service at: <http://globenewswire.com/news-release/2014/10/23/675647/0/en/OW-Bunker-Q3-2014-Interim-Financial-report-Earnings-hit-by-unrealised-risk-management-loss-FY-volume-outlook-lowered-to-focus-on-higher-margin-business.html>.

7. Attached hereto as **Exhibit 5** is an OW Denmark company announcement made on November 5, 2014, which is publicly available from the NASDAQ GlobeNewswire service at: <https://globenewswire.com/news-release/2014/11/05/680315/0/en/OW-Bunker-announces-fraud-in-Singapore-subsiidiary-and-additional-significant-risk-management-loss.html>.

8. Attached hereto as **Exhibit 6** are excerpts from Hapag's 2015 Annual Report, which is publicly available at: <http://ir.hapag-lloyd.com/websites/hapaglloyd/English/4100/annual-and-interim-reports.html>.

9. Attached hereto as **Exhibits 7 – 10** are transcript excerpts from the deposition testimony of the parties' Rule 30(b)(6) witnesses. Pursuant to Section 3(c) of Judge Caproni's individual rules, text-searchable copies of the full deposition transcripts will be provided to the Court on a compact disc. I also note that certain portions of the deposition testimony have been designated as "Confidential" and "Highly Confidential" pursuant to the Protective Order issued by the Court on Dec. 7, 2015. [14-cv-9949, Dkt. # 149.] The following is a summary of these exhibits:

Exhibit No.	Witness Name / Party / Date	Pages
7	Norbert Kock / Hapag / Jan. 19, 2016	14-29, 38-101, 106-161, 198-201, 210-213

8	Thor Nielsen / USOT / Jan. 7, 2016	26-33, 38-41, 50-57, 66-77, 86-93
9	Götz Lehsten / OW Germany / Feb. 23, 2016	34-41, 82-85, 94-97, 110-17, errata sheet
10	Boris Gronenberg / OW Germany / Feb. 24, 2016	30-33, 50-61, 70-73, 78-85

10. Attached hereto as **Exhibits 11 - 30** are documents produced by the parties during discovery in these actions. Documents bearing the Bates stamp prefix “HPL-USOT” were produced by Hapag, while those bearing the prefix “OWG” were produced by OW Germany. Documents stamped with the prefixes “USOT” and “ING” were produced by U.S. Oil Trading LLC (“USOT”) and ING Bank N.V. (“ING”), respectively. The following is a summary of these exhibits:


Exhibit No.	Description	Bates No.
11	Emails and requisition forms from Vessels to Hapag	HPL-USOT 90-91 HPL-USOT 115-16 HPL-USOT 135-36 HPL-USOT 175
12	Bcc email solicitations for bids from Hapag to sellers	HPL-USOT 92 OWG 152 OWG 374 HPL-USOT 139-40
13	Email requests for quotations from OW Germany to OW USA	OWG 149 OWG 153 OWG 375 OWG 462
14	Emails with “typicals” from OW USA to OW Germany	OWG 446-50 OWG 477-79 OWG 492-94 OWG 514-15

15	Emails with “typicals” from OW Germany to Hapag	HPL-USOT 93 HPL-USOT 142 HPL-USOT 180
16	Hapag’s internal fuel comparison charts	HPL-USOT 94 HPL-USOT 117 HPL-USOT 146 HPL-USOT 181
17	Purchase Orders issued by Hapag to OW Germany	HPL-USOT 102-04 HPL-USOT 118-20 HPL-USOT 151-53 HPL-USOT 182-84
18	Sales Order Confirmations issued by OW Germany to Hapag	HPL-USOT 95-98 HPL-USOT 147-50 HPL-USOT 189-92 OWG 196-99
19	Purchase Order Confirmations from OW Germany to OW USA	OWG 190-92 OWG 193-95 OWG 200-02 OWG 383-85
20	Sales Order Confirmations from OW USA to OW Germany	OWG 464-68 OWG 487-91 OWG 507-11 OWG 516-20
21	Purchase Order Confirmations from OW USA to USOT	USOT 3-4 USOT 55-56 USOT 110-11 USOT 165-66
22	USOT’s Sales Confirmations	USOT 1-2 USOT 53-54 USOT 108-09 USOT 163-64
23	Emails from Vessels to Hapag with Bunker Delivery Receipts	HPL-USOT 113-14 HPL-USOT 128-29 HPL-USOT 170-71 HPL-USOT 197-98

24	OW Germany's Invoices to Hapag	HPL-USOT 24 HPL-USOT 78 HPL-USOT 80 HPL-USOT 199-200
25	OW USA's Invoices to OW Germany	OWG 38 OWG 46 OWG 54 OWG 64
26	USOT's Invoices	USOT 8 USOT 60 USOT 115 USOT 170
27	Hapag's Payment Advice (<i>Zahlungsavis</i>) to OW Germany	HPL-USOT 172
28	Notices of Cooperation Agreement	ING 469-70 ING 474-76
29	Email chain between OW Germany and OW USA	OWG 502-06
30	Claim email from Hapag to OW Germany	HPL-USOT 126

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 13, 2016



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